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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,174	02/02/2007	Paul White	TRWZ 2 00281	5595
27885	7590	03/05/2010		
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EXAMINER				
SCHIFFMAN, BENJAMIN A				
ART UNIT		PAPER NUMBER		
1791				
MAIL DATE		DELIVERY MODE		
03/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/568,174

Applicant(s)

WHITE ET AL.

Examiner

BENJAMIN SCHIFFMAN

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/10/6 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The papers submitted 31 December 2009, amending claims 14, 16-22 and the specification and canceling claims 12 and 13, are acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 14-16 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (US 3,000,049).
6. Regarding claim 23, Terry discloses a method of molding a two part hinge including a first molded part and a second molded part connected together during molding to allow relative pivotal movement between the parts (**see col. 1 l. 10-35**) with the steps of: molding the first part; molding the second part over the first part after molding of the first part to form an interface between the second part and the first part at which said relative pivotal movement is allowed; and after molding of the second part, allowing the second part to shrink in a controlled manner to provide a predetermined frictional force at the interface between the first part and the second part in order to resist said relative pivotal movement (**see col. 2 l. 31-68**). Further although Terry does not explicitly disclose that the first part shrinks during the molding of the second portion, i.e. after molding the first portion; however, one of ordinary skill in the art would recognize that the plastic of the first part necessarily shrinks after it is molded, i.e. during molding of the second portion. Further the precise time of the shrinkage, during the second molding cycle would not have unexpected results to one skilled in the art.
7. Regarding claim 14, Terry discloses that the process creates hinges which have freedom of articulation without producing appreciable loss motion of looseness between the molded parts (**see col. 2 l. 65-68**), analogous to a constant frictional force.
8. Regarding claim 15, Terry discloses that the interface between the two molded parts is annular (**see col. 2 l. 11-30**).

9. Regarding claim 16, Terry discloses that the interfaces is formed such the friction is not constant (**see col. 2 l. 69 to col. 3 l. 15**).

10. Regarding claim 18 and 19, although Terry does not explicitly disclose that the first part is resilient after molding and is deformed at the interface during molding and shrinkage of said second part, the resilience of said first part affecting the frictional force in an equilibrium condition at said interface; however, one of ordinary skill in the art would recognize this would necessarily occur during the molding process. Furthermore one of skill in the art would not expected additional results without further enumerated process step limitations, other than results of performing the process as claimed.

11. Regarding claim 20, Terry discloses that the first and the second part are molded with limiting means for limiting the relative pivotal movements, i.e. the leafs (1 and 7) (**see col. 2 l. 11-30**).

12. Regarding claim 21, Terry discloses detent portions which resist pivotal movement between a first orientation (**see col. 2 l. 69 to col. 3 l. 15**).

13. Regarding claim 22, although Terry does not explicitly disclose that the first part is fixed and the second part is pivotable; however, one of ordinary skill in the art would recognize that the intended use of the hinge of Terry would be to preform the claimed task, further the specific molded portion of the hinge which is fixed and that which is pivotable would be an obvious reversal of parts, and would not obtain unexpected results (**see MPEP 2144.04**).

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (US 3,000,049) in view of Magnenat (US 2,342,477)
15. Terry does not appear to expressly disclose that the interface region is elliptical.
16. However, Magnenat discloses a hinge with an elliptical interface region (**see p. 1 col. 1 l. 16-23**).
17. At the time of invention, it would have been *prima facie* obvious to one of ordinary skill in the art to modify the hinge of Terry to include elliptical interface of Magnenat, in order to form a biased hinge which has a more preferred position, as is well known in the art of hinges.

Response to Arguments

18. Applicant's arguments filed 31 December 2009 have been fully considered but they are not persuasive.
19. Applicant argues that the disclosure of Terry does not include molding the second portion of the hinge while the first portion is shrinking and further that Terry teaches away from modifying the shrinkage of the first portion to occur during the molding of the second portion, because Terry discloses a "completed leaf". However, a person of ordinary skill in the art would not interpret the "completed leaf" of Terry to necessarily be fully shrunk; another reasonable interpretation of "completed leaf" would be that the leaf has cooled below its glass transition temperature and therefore would not deform while it is removed. Furthermore, as discussed in the rejection above, Terry discloses the active process steps of the instantly claimed invention, i.e. a two-stage

molding process, and is implicitly capable of molding the second portion during shrinkage of the first portion. The instant claims do not present any active process steps to control the shrinkage, such as the time between molding or the quantitative amount of shrinkage, which could control the predetermined frictional force; the instant claims merely present a desired passive result of the molding process. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

20. With respect to claims 14-22, applicant presents no further arguments other than those addressed above with respect to claim 23.

Conclusion

21. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

22. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN SCHIFFMAN whose telephone number is (571)270-7626. The examiner can normally be reached on Monday through Thursday from 9AM until 4PM.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHRISTINA JOHNSON can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BENJAMIN SCHIFFMAN/

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Examiner, Art Unit 1791

/Christina Johnson/

Supervisory Patent Examiner, Art Unit 1791